

DOCKET NO.: 283148US0PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

GROUP: 1637

Koji SUEMATSU, et al.

SERIAL NO: 10/563,818

EXAMINER: Strzelecka, Teresa E.

FILED: January 6, 2006

FOR: METHOD OF JUDGING RISK FOR DRUG-INDUCED
GRANULOCYTOPENIA

ELECTION & RESPONSE TO ELECTION OF SPECIES REQUIREMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

Sir:

In response to the Restriction Requirement dated December 18, 2008, the Applicants elect *with traverse*, **Species (E)** described as A29793G in the specification and as an “A to G conversion at position 33,392 of SEQ ID NO: 19”—see claim 30(d) .

The Examiner also required an election of one species of probe or primer. The Applicants herewith elect, also *with traverse*, **a primer or probe corresponding to Species (E) as described by claim 30(d)**. It is noted that none of the oligonucleotides described in the election of species requirement (i.e., SEQ ID NOS: 3, 6, 9, 12 and 17) correspond to the elected Species (E) and that the elected species is not specifically exemplified by the specification, since A29793G was detected by PCR-RFLP analysis (i.e., by using a restriction enzyme) without using a specific primer. This as described on page 54 (paragraph [0122]) of the present application.

The traverse is on the grounds that no undue burden would be imposed in the examination of the species at once, since substantially similar searches are required for each species. Should the requirement be maintained, it is the Applicants understanding that

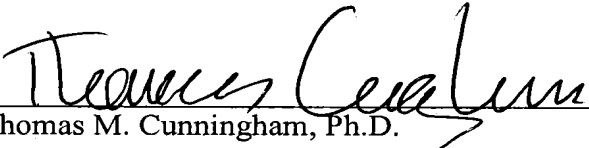
additional species will be examined upon an indication of allowability for a generic claim reading on the elected species.

The Applicants also reserve the right to file a Divisional Application directed to any non-elected subject and remind the Office that 35 U.S.C. §121 prohibits the use of a patent issuing on an application with respect to which a requirement for restriction has been made, or on an application filed as a result of such a requirement, as a reference against any divisional application, MPEP 804.01.

Accordingly, the Applicants respectfully request that the Election of Species Requirement be withdrawn and all the species examined together.

Respectfully Submitted,

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